

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,

NO. CR. S-97-0054 WBS

Plaintiff,

v.

ORDER

TANH HUU LAM,

Defendant.

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By a written Memorandum and Order filed March 6, 2003, this court granted the government's motion to dismiss Lam's petition to vacate, set aside or correct his conviction and sentence pursuant to 28 U.S.C. § 2255. On March 26, 2003, the court granted petitioner's request for a certificate of appealability on the question of whether he procedurally defaulted on his claims because he did not raise them on his direct appeal. The Court of Appeals affirmed this court's order on December 19, 2003. United States v. Lam, 84 Fed.Appx 892, C.A.9, 2003.

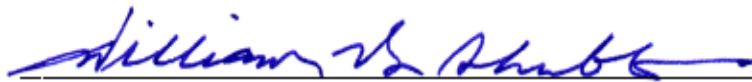
Lam attempted to file another motion to vacate his plea, pursuant to Rule 11(3) of the federal Rules of Criminal Procedure and Rule 60(b) of the Federal Rules of Civil Procedure, on January 18, 2005. By written order filed May 5, 2005, this court granted

1 the government's motion for summary judgment and dismissed Lam's
2 petition on the ground that it was in substance a successive
3 section 2255 petition, which was precluded by 28 U.S.C. § 2244
4 because petitioner had not obtained a certification to file a
5 successive petition from the Court of Appeals. This court denied
6 Lam's motion for reconsideration of that order on May 18, 2005.
7 On April 19, 2007, the Court of Appeals affirmed this court's
8 orders on Lam's second section 2255 petition. United States v.
9 Lam, 228 Fed.Appx. 739, C.A.9, 2007.

10 Now, more than seven years after this court dismissed
11 his first petition, Lam moves for reconsideration of that order.
12 The motion simply rehashes arguments that were either made or
13 could have been made in his direct appeal or in his original
14 petition. Lam has set forth no valid reason why this court should
15 reopen his original section 2255 proceeding or change or modify
16 its ruling on that motion.

17 IT IS THEREFORE ORDERED that Tanh Huu Lam's petition for
18 reconsideration of this court's Order of March 6, 2003, dismissing
19 his petition to vacate, set aside or correct his conviction and
20 sentence pursuant to 28 U.S.C. § 2255 be, and the same hereby is,
21 DENIED.

22 DATED: May 7, 2010

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25 WILLIAM B. SHUBB
26 UNITED STATES DISTRICT JUDGE
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